

In The United States District Court  
For The District Of Delaware

James W. Riley,  
Plaintiff,

v.

Stanley Taylor, et al.,  
Defendants

C. A. No. 06-01-GMS



Motion To Compel Ruling On Plaintiff's

Motion For Reconsideration Of The Court's

Decision Denying Plaintiff's Motion

For Preliminary Injunction And Temporary  
Restaining Order

BD scanned

Dear Judge Sleet,

The defendants wrote two letters to the Court dated November 3, 2006 and November 13, 2006, advising the Court that they have taking adequate steps to provide plaintiff with the treatment ordered by physicians nearly two years ago to have his eyes examined by an optometrist and fulfillment of an prescription for orthopedics Foot-wear. The letters also indicate that a Dr. Rodger will or had examine plaintiff on November 3, 2006, to resolve any remaining medical care issues; and that plaintiff was treated on November 10, 2006, at which time Snellen and Rosenbaum examinations were performed on his eyes.

This is to inform the court that plaintiff have not been seen by doctor Rodgers or any other doctor. However, on November 10, 2006 (Hereafter 11/10/06) plaintiff was seen by a nurse who only performed a 2-minute eye examination which results are attached to defendants' November 13, 2006, Letter. (Note: Those results contain both eye examinations from January 2005 and November 2006. The 2005 Snellen long distance test on plaintiff's right eye went from 20/200 to 20/400 in 2006. The only close-up Rosenbaum test conducted on plaintiff's left eye is actually 20/400 rather than 20/40 as erroneously noted on the 2006 examination report, because the nurse did not require plaintiff to cover the right eye when performing this close-up test.).

The court should also take notice that on the Physician's Order Sheet attached to defendants' 11/13/06 Letter (also attached hereto), in sections entitled: "Start New Orders Below", the impression is wrongfully given that Dr. Rodgers personally supervised the 11/10/06 eye examinations conducted by the nurse. Again, plaintiff never seen Dr. Rodgers or any other doctor in 2006!

Finally the defendants' stated in their 11/13/06 Letter... "prescriptions written prior to that time were by a prior medical provider under their policies"; and that... "It is NOT the policy of CMS to provide high top sneakers".

This is direct evidence establishing CMS' liability for maintaining a policy and practice to deny prisoners adequate medical care. Thus as argued throughout

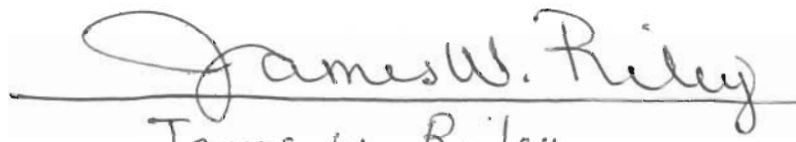
plaintiffs' summary judgment pleadings, because CMS assumed the original contract as medical provider for DOC from the First Correctional Medical Company (FCM) it replaced in 2005 then it was their duty to fulfill any prior prescriptions, orders, requests or unfinished medical treatment by doctors contracted by FCM. Nor is it reasonable for CMS to state that it is not their policy to provide high top sneakers which were prescribed by physicians for medical reasons. Such a policy and practice is direct evidence CMS does not provide adequate orthopedic foot care and have denied plaintiff access to orthopedic treatment prescribed by doctors over a period of three years.

### Continued Pain, Suffering, Irreparable Harm And Injuries

The defendants have demonstrated a willful persistent and blatant disregard for plaintiff's serious medical needs which continue to result in constant pain & suffering and irreparable harm & injuries. Defendants continue to be deliberate indifference for failure to 1) provide treatment for a painful rectum dysfunction which now resulted in hemorrhage; 2) provide treatment for a re-occurring skin infection caused possibly by exposure to necrotizing fasciitis bacteria resulting in continued facial skin and tissue damage & scarring; 3) provide orthopedic footwear (both sneakers & boots) prescribed by doctors to prevent pain and harm to surgical pins

in ankle ; and 4) carry out physicians' orders to allow plaintiff to consult an optometrist for impair eye vision which continue to result in pain, suffering and irreparable optical nerve damage and declining impair eye sight.

This court without further delay must grant this motion for reconsideration to issue a preliminary injunction on the defendants directing them, their agents and custodians having charge over plaintiff, to provide plaintiff medical treatment, immediately, and to impose judicial sanctions against them for each day for failing to comply therewith.

  
James W. Riley  
Plaintiff

(Date: December 13, 2006





# PHYSICIAN'S ORDER SHEET

START

① HIGH TOP BOOTS - non-form filled out

② CMP

③ OPTH CONSULT - (P) eye 20/200 ✓  
(eye doctor) (C) eye 20/30

Noted about 12:00 PM @ 2:00 PM

2005

PROVIDER'S SIGNATURE

## START NEW ORDERS BELOW

START

✓ Shellen } today  
✓ Ixsenbaum } please

consult written for high top sneakers (from grievance)

PROVIDER'S SIGNATURE

## START NEW ORDERS BELOW

START

Optho consult - done

Feet 11/15/06

11 am

PROVIDER'S SIGNATURE

NAME Riley, James

ALLERGIES NADA

ID 169716

DOB 8.14.40

**Certificate of Service**

I, James Riley, hereby certify that I have served a true  
and correct cop(ies) of the attached: MOTION TO Compel

\_\_\_\_\_ upon the following

parties/person (s):

TO: Ophelia M. Waters  
Deputy Attorney General  
820 N. French Street  
Wilm., Delaware  
19801

TO: \_\_\_\_\_

TO: Kevin J. Connors  
1220 N. MARKET ST., 5th, Fl.  
P.O. Box 8888  
Wilm., Delaware  
19899-8888

TO: \_\_\_\_\_

**BY PLACING SAME IN A SEALED ENVELOPE** and depositing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 14 day of December, 2006

James Riley

IM James Riley  
SBI# 16916 UNIT Mill Bldg. 22  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977

Clerk's Office  
U.S. District Court  
844 King St.  
Wilmington, Dela. 19801

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